



State of Tennessee
Department of State
Administrative Procedures Division
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February 8, 2017

Commissioner Julie Mix McPeak
Tennessee Department of Commerce &
Insurance
Office of Legal Counsel
12th Floor, Davy Crockett Tower
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Nashville, Tennessee 37243-5065

Jeanette N. Carey
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RE: In the Matter of: Jeanette N. Carey

Docket No. 12.04-139400J

Enclosed is an Initial Order rendered in connection with the above-styled case.

Administrative Procedures Division
Tennessee Department of State

/aem
Enclosure

RECEIVED

FEB 10 2017

**DEPT. OF COMMERCE AND INSURANCE
LEGAL OFFICE**

**BEFORE THE COMMISSIONER OF THE TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE**

IN THE MATTER OF:

JEANETTE N. CAREY

DOCKET NO. 12.04-139400J

NOTICE

ATTACHED IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **February 23, 2017.**

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
WILLIAM R. SNODGRASS TOWER
312 ROSA PARKS AVENUE, 8th FLOOR
NASHVILLE, TENNESSEE 37243-1102

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472.** PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

**BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE**

IN THE MATTER OF:

**TENNESSEE INSURANCE DIVISION,
Petitioner,**

DOCKET NO: 12.04-139400J

v.

**JEANETTE N. CAREY,
Respondent.**

NOTICE OF DEFAULT AND INITIAL ORDER

This matter came to be heard on January 12, 2017, before Leonard Pogue, Administrative Judge, sitting for the Tennessee Commissioner of Commerce and Insurance in Nashville, Tennessee. Jesse Joseph, Assistant General Counsel, Department of Commerce and Insurance, represented the State. Respondent, Jeanette Carey, was not present at the hearing nor did an attorney appear on her behalf. The subject of this hearing was the State's Notice of Hearing and Charges requesting revocation of Respondent's insurance producer license and civil penalties against the Respondent for violations of T.C.A. § 56-6-112.

ORDER OF DEFAULT

The State moved that a default be entered against Respondent for failure to participate in the hearing after due notice. The State provided proof that service of the Notice of Hearing and Charges was made at Respondent's address of record by certified mail on December 6, 2016. It appearing that proper notice was made upon Respondent, and that Respondent failed to appear at the hearing, the State's Motion for Default is well taken and is hereby **GRANTED** pursuant to

TENN. CODE ANN. § 4-5-309(a). *See also* RULE 1360-4-1-.15(1) of the Uniform Rules of Procedure for Hearing Contested Cases before State Administrative Agencies, TENN. COMP. R. & REGS. Ch. 1360-4-1 (June 2004 (Revised)).

INITIAL ORDER

After consideration of the evidence presented, argument of counsel and the record in this matter, it is determined that the **Respondent's license should be revoked and Respondent should be assessed a civil penalty in the amount of \$3,000.00 and costs.** This decision is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Title 56 of the Tennessee Code Annotated ("Tenn. Code Ann."), specifically Tenn. Code Ann. §§ 56-1-202 and 56-6-112 (the "Law"), places the responsibility of the administration of the Law on the Commissioner of the Department of Commerce and Insurance ("Commissioner"). The Division is the lawful agent through which the Commissioner discharges this responsibility.
2. Jeanette N. Carey ("Respondent") is a licensee of the Division who is responsible for being compliant with the insurance laws and regulations of the State of Tennessee. Respondent holds an active Tennessee insurance producer license, number 0972080, which became active on April 10, 2007, and which is currently scheduled to expire on March 31, 2017.
3. Respondent's mailing and residential address currently listed with the Department is 300 Oakridge Boulevard, Lynchburg, VA 24502.
4. At all times relevant to the matters set out in the Notice of Hearing and Charges, Respondent worked as a sales consultant for Nationwide Mutual Insurance Company ("Nationwide").

5. One day in or about February 2015, Respondent approached a coworker, Santrisa Ray, to write a homeowner's insurance policy for Respondent's personal home. Ms. Ray agreed to do this and wrote the Nationwide homeowners' policy for Respondent. During the early spring of 2015, Respondent received notice that her Nationwide homeowner's insurance policy would be canceled due to an unacceptable roof. To remedy the matter, in or about April 2015, Respondent told Ms. Ray that she planned to have a metal roof installed. About one week later, Ms. Ray noticed Respondent searching the internet and saw pictures of roofs on Respondent's computer.
6. Ms. Ray asked Respondent what she was planning to do in this regard, and Respondent told Ms. Ray that she was planning to use the pictures of roofs from the internet to submit to Nationwide in lieu of her actual roof. Respondent stated to Ms. Ray that she was planning on getting a metal roof within a year's time, but just couldn't get the new roof at that moment.
7. In response, Ms. Ray told Respondent that it was not a good idea for Respondent to do this. Ms. Ray then immediately notified her supervisor, Andrea Patillo, of this conversation with Respondent. Ms. Patillo first learned of the Respondent's possible intent to submit to Nationwide the internet photos of a different roof and misrepresent those as photos of her own roof, during her conversation with Santrisa Ray at some point on or around April 2015.
8. Initially, Ms. Patillo was uncertain as to whether Respondent would have done this and wondered whether another inspection of the Respondent's roof in April or May of 2015 would clarify the situation. Ms. Patillo did, however, walk past Respondent's computer

sometimes on or around April or May of 2015 and saw pictures of roofs on Respondent's desktop computer.

9. On May 8, 2015, in response to a request from Kate Shafer of Nationwide for Respondent to send documentation/pictures to Ms. Shafer when the roof repairs were complete, Respondent sent a reply email stating "And I will get those roof pics into you asap..."
10. On May 19, 2015, Respondent knowingly submitted photographs of roofs from the internet to Ms. Shafer of Nationwide, falsely representing them in her email of that date as photographs of her own repaired roof, by stating "[h]ere are the updated pictures of my new roof, they really did a good job!"
11. Upon inspection of the home, Nationwide determined the photographs submitted on or about May 19, 2015, by Respondent did not match Respondent's home, and that Respondent did not have her roof replaced as represented in the photographs she fraudulently submitted to Nationwide. After being told of Nationwide's determination that the photographs she submitted did not match her home, Respondent admitted to Nationwide that the pictures she provided Nationwide were obtained from the internet and that she misrepresented them as being pictures of her own roof.
12. At some point on or around late May 2015, Ms. Ray received an email from the Nationwide Agency Support Unit indicating that the Respondent's Nationwide policy had canceled, and at some point in the summer of 2015, Ms. Patillo reported her concerns about Respondent's actions in this regard to Nationwide's Special Investigations Unit ("SIU").
13. Respondent attempted to justify her actions by explaining to Nationwide staff that this was a "last ditch effort" to prevent her Nationwide policy from cancelling, that the photos she submitted were of a roof that she "wanted to purchase," and that by the time of

Nationwide's investigation into her conduct, she had allowed her Nationwide policy to cancel because she had obtained a cheaper policy through Geico, which found her existing roof acceptable.

14. On August 4, 2015, Nationwide terminated all of Respondent's appointments for cause.

CONCLUSIONS OF LAW

1. In accordance with Tenn. Comp. R. & Regs. 1360-04-01-.02(7) and 1360-04-01-.15(3), the Petitioner has proven by a preponderance of evidence that the facts alleged in the Notice of Hearing and Charges pertaining to Respondent Jeanette N. Carey are true and that the issues raised therein should be resolved in its favor.

2. Tenn. Code Ann. §§ 56-6-112(a)(2), (a)(7), & (a)(8) provide:

The commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license issued under this part or may levy a civil penalty in accordance with this section or take any combination of those actions, for any one (1) or more of the following causes:

...

(2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;

....

(7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

....

3. The Division has shown by a preponderance of the evidence that the Respondent has violated laws of the Commissioner, in violation of Tenn. Code Ann. § 56-6-112(a)(2); that she admitted to insurance fraud in violation of Tenn. Code Ann. § 56-6-112(a)(7); and that she used fraudulent or deceptive practices in the conduct of insurance business in violation of Tenn. Code Ann. § 56-6-112(a)(8).

4 Tenn. Code Ann. § 56-6-112(g) provides, in pertinent part:

- (g) If . . . the commissioner finds that any person required to be licensed, permitted, or authorized by the division of insurance pursuant to this chapter has violated any statute, rule or order, the commissioner may, at the commissioner's discretion, order:
 - (1) The person to cease and desist from engaging in the act or practice giving rise to the violation.
 - (2) Payment of a monetary penalty of not more than one thousand dollars (\$1,000) for each violation, but not to exceed an aggregate penalty of one hundred thousand dollars (\$100,000). This subdivision (g)(2) shall not apply where a statute or rule specifically provides for other civil penalties for the violation. For purposes of this subdivision (g)(2), each day of continued violation shall constitute a separate violation; and
 - (3) The suspension or revocation of the person's license.

5. It is determined that the proof adduced at hearing provides adequate grounds for the revocation of Respondent's Tennessee insurance producer license.

6. Tenn. R. Civ. P. 54.04(1) and Tenn. Comp. R. & Regs. 1360-04-01-.01(1) read as follows:

54.04. Costs. –

- (1) Costs include in the bill of costs prepared by the clerk shall be allowed to the prevailing party unless the court otherwise directs, but costs against the state, its officers, or its agencies shall be imposed only to the extent permitted by law.

1360-04-01-.01(3) SCOPE.

- (3) In any situation that is not specifically addressed by these rules, reference may be made to the Tennessee Rules of Civil Procedure for guidance as to the proper procedure to follow, where appropriate and to whatever extent will best serve the interests of justice and the speedy and inexpensive determination of the matter at hand.

7. It is further determined pursuant to the above authorities that the hearing costs incurred by the Division for the Administrative Procedures Division of the Secretary of State, and for the court reporter in this matter, should be assessed against the Respondent. The Petitioner

shall file its Itemized Assessed Bill of Costs including the Administrative Procedures Division costs, and those of the court reporter, within fifteen (15) days after the filing of the Initial Order in this matter, and said costs are hereby incorporated within the Initial Order.

WHEREFORE, it is hereby **ORDERED, ADJUDGED AND DECREED** that Respondent's Tennessee insurance producer license (No. 0972080) **be and hereby is, REVOKED**, Respondent is hereby **ASSESSED** and shall pay a civil penalty in the amount of **\$3,000.00**, Respondent **shall CEASE and DESIST** from any such activities, and the costs of this action are assessed against Respondent.

This Initial Order entered this 8th day of February, 2017.



Leonard Pogue
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State
this 8th day of February, 2017.



J. Richard Collier, Director
Administrative Procedures Division

APPENDIX A TO INITIAL ORDER
NOTICE OF APPEAL PROCEDURES

Review of Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee, 37243-1102. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.